

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTON

WRIT PETITION NO.622 OF 2004

The Commissioner of Income tax .. Appellant.

Versus

M/s.Ramkumar Jalan .. Respondent.

Mr.R.G. Bhat for the appellant.

Ms.Vasanti B. Patel for the respondent.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 13TH AUGUST, 2007.

P.C. :

1. The following question was framed by the revenue, "whether burden of proving that the estimate of advance tax submitted by the assessee is true and accurate is on the assessee ?"

2. The Tribunal noted that the issue of burden of proving that the estimate of advance tax submitted by the assessee was false, inaccurate to its knowledge was on the revenue, relying upon the judgment of Madras High Court in the case of Southern Publications Pvt. Ltd. V/s. CIT reported in 137 ITR 822 and Calcutta High Court in the case of CIT V/s. Birla Cotton Spinning and Weaving Mills Limited reported in 155 ITR 448. Nothing has been drawn to our attention to take a contrary view.

3. Apart from that, from para 5 of the order of the ITAT it would be clear that there were different opinions of the department on the same issue and which would result in inference that the estimate of advance tax furnished by the assessee was not untrue.

4. This is a finding of fact. The question of law as framed as such would not arise.

5. The appeal is dismissed with no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)